THE HONOURABLE SRI JUSTICE T.CH.SURYA RAO

AND

THE HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION NO.7941 of 2001

DATED: 12-06-2006

BETWEEN:

Mohd. Qutubuddin Khan Soofi and another … Petitioners

And

The Registrar,

Special Court under the A.P. Land

Grabbing (P) Act, Hyderabad

And others …Respondents

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ORDER: (per TCSR,J)

The writ petitioners seek to assail the judgment dated 20-12-2000 passed by the learned Special Court under A.P. Land Grabbing (Prohibition) Act in L.G.C.No.35 of 1997 and pray for issuance of the appropriate writ of Certiorari under Article 226 of the Constitution.

The writ petitioners appeared before this court through their General Power of

Attorney holder, a duly constituted agent by name Syed Jafaruddin Hussain. They claim that their mother Smt. Ameena Begum was the original owner and possessor of the land in an extent of Ac.2.06 guntas covered by Survey No.315/1 situated at Karmanghat village, Saroor Nagar Mandal, Ranga Reddy District. They further claim that out of the said extent, the respondents grabbed the land in an extent of 2,157 square yards without any manner of right taking advantage of the proceedings pending before the Urban Land Ceiling Authorities.

Initially the L.G.C. was filed against 13 respondents and the other respondents later came to be added. The first respondent claimed no interest over the land in dispute and pleaded that he was unnecessarily added. However, respondents 2 to 39 resisted the application by filing a common counter. According to them, the original owners of the land in dispute were one late Ch. Satyanarayana Rao (for short 'RAO') and late Ch. Venkata Seeta Rama Swamy (for short 'SWAMY'). That land was an extent of Ac. 10.22 guntas of which the land covered by Survey No.315/1 admeasuring Ac.2.06 guntas is a part. Subsequently, they wanted to convert their land into plots and at the same time, Smt. Ameena Begum also requested them to convert her land also into plots and thus, the entire land in an extent of Ac.10.22 guntas including the land covered by Survey No.315/1 was divided into plots and got a single lay out sanctioned by the Gram Panchayat. At that stage Smt. Ameena Begum sold away her land to one Venkata Narayana and others under an agreement of sale. She also appointed one
K. Srihari as her General Power of Attorney Holder to execute the necessary sale deeds on her behalf and in favour of the purchasers. Incidentally, Rao and Swamy also appointed the same K. Srihari as their G.P.A. holder. Pursuant to the GPA, the said Srihari sold the plots and executed the necessary sale deeds in favour of the respondents.

On the above pleadings, the following three issues have been framed by the Special Tribunal.

1. Whether the applicants have title to the application schedule land?
2. Whether the rival title set up by the respondents is true, valid and binding?
3. Whether the respondents are land grabbers within the meaning of the Act?

At the time of enquiry, two witnesses were examined on the side of the applicants and the documents Exs.A1 to A17 were got marked. As many as 36 witnesses were examined on the side of the respondents and got Exs.B1 to B100 marked.

On appreciation of evidence both oral and documentary adduced on either side, the learned Special Court was of the view that the petitioners miserably failed to establish their title to the application schedule property and that the respondents 2 and 4 to 39 have established the rival title set up by them in respect of the application schedule property and that the possession of the respondents is lawful and is under legal entitlement and therefore, they could not be held to be land grabbers. As aforesaid, it is now being assailed before us.

Sri Shareef Ahmad, learned counsel appearing for the writ petitioners contends that the learned Special Court having held that Smt. Ameena Begum to be the original owner, the Tribunal acted without jurisdiction and having held that the respondents have also perfected their title by adverse possession and such a finding is obviously without jurisdiction. It is the further contention of the learned counsel that once the issue that the respondents perfected their title by adverse possession could not be adjudicated upon, they shall have to be invariably and necessarily declared as land grabbers.

In Para-27 of the judgment, the Special Court was so clear and categorical that Smt. Ameena Begum, widow of Naseer Yar Jung was the owner of the land in an extent of Ac.2.06 guntas covered by Survey No.315/1 of Karmanghat village since the documents Exs.A5, A8 and A11 prima facie show that Smt. Ameena Begum was the original owner. Subsequently, she was declared as non-surplus holder in view of G.O.Ms.No.733 Revenue (UC.III) Department dated 31-10-1988. The agreement of sale said to have been executed by Smt. Ameena Begum in favour of one K. Venkata Narayana and the General Power of Attorney said to have been executed by her in favour of K. Srihari, which were marked in this case as Exs.B4 and B6 respectively, were denied of having been executed by her. It may be reiterated here that the case of the respondents was that Srihari, the General Power of Attorney holder of Ameena Begum in turn executed the respective sale deeds in favour of the respondents. After having considered the oral evidence on the point,

perused the documents Exs.B4, B6 and other allied documents, the Tribunal was of the clear view that Ex.B4 and B6 came into existence on 23-04-1979 and few days later viz., on 28-04-1979 RAO and SWAMY also executed Ex.B3 General Power of Attorney in favour of the said Srihari in respect of their lands by authorizing the said Srihari to sell the plots on their behalf. In that view of the matter, both the documents were held to be genuine. Consequently, all the respondents were held to be *bonafide* purchasers. At this stage, the learned counsel for the writ petitioners represents that the original owner Smt. Ameena Begum executed only the agreement of sale in favour of the respondents and she never executed any conveyance deed in their favour. No title vested in them and therefore, their possession over the lands in question admittedly belonging to Ameena Begum, is nothing short of land grabbing.

We are afraid and we cannot accede to the said contention of the learned counsel. Here is a case where admittedly Smt. Ameena Begum executed an agreement of sale in the first instance. The Tribunal now found that she executed General Power of Attorney in favour of K. Srihari and K. Srihari in turn executed the necessary sale deeds in favour of the respondents. Even in the absence of the sale deeds said to have been executed by the General Power of Attorney, the original agreement of sale executed in favour of the respondents still remains and the possession of the respondents given there under and pursuant there to cannot be called as an unlawful or illegal possession so as to eventually constitute an act of land grabbing. On the other hand, we are of the considered view that their possession becomes lawful and they are entitled to the protection under Section 53(A) of the Transfer of Property Act. Now, it is said that the General Power of Attorney of Smt. Ameena Begum executed the necessary sale deeds, and possession of the respondents is further fortified by means of regular conveyance deeds.

The jurisdiction of the Tribunal under the provisions of A.P. Land Grabbing (Prohibition) Act lies in a narrow compass. The Tribunal or the Special Court, as the case may be, gets jurisdiction only when there is an allegation of act of land grabbing. Such acts have to be pleaded and proved before the Forum under the Act. Therefore, the question that is germane in the instant writ petition is whether the respondents herein, who are contesting, can be called as land grabbers and that they have committed any act of land grabbing.

The expression 'land grabbing' has been defined under Section 2(e) of the Act.

> Section 2(e): "land grabbing" means every activity of grabbing of any land (whether belonging to the Government, a local authority, a religious or charitable institution or endowment, including a wakf, or any other private person) by a person or group of persons, without any lawful entitlement and with a view to illegally taking possession of such lands, or enter into or create illegal tenancies or lease and licences agreements or any other illegal agreements in respect of such lands, or to construct unauthorized structures thereon for sale or hire, or give such lands to any person on rental or lease and licence basis for construction, or use and occupation, of unauthorized structures; and the term "to grab land" shall be construed accordingly"

There must be an unlawful or illegal taking possession of the land without any lawful entitlement with the object of constructing unauthorized structures thereon or for sale or hire. Once it is said that the respondents were put in possession of the land pursuant to the agreement of sale executed by Smt. Ameena Begum, by no stretch of imagination, it cannot be said that they illegally, unlawfully or unscrupulously occupied the land without any lawful entitlement thereto, with a view to construct any houses thereon or to sell or alienate the same. In other words, their possession over the schedule mentioned land couldn't be termed as unlawful or illegal. Therefore, it is clear that they have not committed any act of land grabbing. At any rate, it has not been proved prima facie by the writ petitioners that the respondents have committed an act of land grabbing so as to shift the burden to them to prove that they are not the land grabbers and the presumption cannot be drawn that they are the land grabbers as enjoyed under Section 10 of the Act.

While holding that the respondents have been in possession of the plots in question as bonafide purchasers thereof, the Tribunal further has gone a step forward and has held that they have been perfected their title by adverse possession. The finding that the respondents have perfected their title by adverse possession is 'uncalled for and without jurisdiction' in view of the judgment of the Apex Court in ***K. Srinivasa Rao v. The Tribunal***. Under the A.P. Land Grabbing (Prohibition) Act as discussed herein above, the jurisdiction of Special Tribunal or the Special Court appears to be lying in a narrow compass. It has to decide whether

the respondent/respondents has/have committed any act of land grabbing or not? In the process, it can invoke the presumption enjoying under Section 10 of the Act and it can also decide the question of ownership, title or lawful possession of the land grabbed. However, having regard to the judgment of the Apex Court, the Tribunal cannot hold that the respondents have perfected their title by means of adverse possession, which invariably falls within the domain of the civil Court.

For the above reasons, we are of the considered view that there is nothing for us to interfere with the finding of the Tribunal that respondents are the bonafide purchasers and have been put in possession lawfully. Therefore, it is obvious that they have not committed any act of land grabbing. It may be mentioned here that we are not sitting in appeal over the judgment of the Special Court as the jurisdiction of this court under Article 226 is hedged with certain limitations and we have to exercise the jurisdiction sparingly within the said parameters. Inasmuch as we find that the Tribunal has not committed any error of jurisdiction or any illegality while holding that the respondents are bonafide purchasers, there is nothing for us to interfere with the said finding.

For the above reasons, we dismissed the writ petition. But under the circumstances, no separate order as to costs.

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T.CH. SURYA RAO, J.

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G. CHANDRAIAH, J.

Dated: 12..06..2006.

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